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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

CHESTER L. ATHEY,

Plaintiff,

vs.

MGM RESORTS INTERNATIONAL, a
Foreign Corporation, AS GENERAL
PARTNER OF VICTORIA PARTNERS
d/b/a Park MGM; MANDALAY RESORT
GROUP, a Domestic Corporation, AS
GENERAL PARTNER OF VICTORIA
PARTNERS, d/b/a Park MGM; VICTORIA
PARTNERS, d/b/a Park MGM, a domestic
limited partnership; ROE Business
Organizations I-X; and DOE INDIVIDUALS
I-X, Inclusive,

Defendants.

Case No.: 2:19-cv-01953-KJD-VCF

**STIPULATION AND ORDER TO
EXTEND DISCOVERY AND
DISPOSITIVE MOTION DEADLINES**

[SEVENTH REQUEST]

The parties, by and through their respective counsel of record, hereby stipulate and agree as follows:

1. On February 18, 2020, this Court entered an Order granting the Stipulated Discovery Plan and Scheduling Order submitted by the parties. ECF No. 24. On May 20, 2020, this Court granted the parties' request to stay the action in its entirety due to circumstances

1 caused by the COVID-19 pandemic and closure of all casino/hotel properties on the Las Vegas
2 Strip. ECF No. 29. Two additional stays were requested by the parties and granted by the Court.
3 ECF Nos. 26-31. The final stay expired on August 3, 2020, and thereafter, the Court granted the
4 Parties' Stipulation and Order To Amend The Scheduling Order. ECF No. 33.

5 2. On December 12, 2020, the parties jointly informed the Court that an employee in
6 defense counsel's office had tested positive for COVID-19, with the entire office having been
7 potentially exposed, and Deverie Christensen, who is also the managing partner of the Las Vegas
8 office of Jackson Lewis P.C., temporarily shut down the office. The parties requested an
9 extension of discovery deadlines on the basis of that emergency. ECF No. 34. On December 14,
10 2020, this Court entered an Order granting the Parties' Stipulation to Amend the Scheduling
11 Order, moving the discovery deadline to May 7, 2021. ECF No. 35.

12 3. On March 26, 2021, the parties informed the Court that Deverie Christensen had
13 been unable to work due to illness, which caused significant scheduling conflicts and delayed the
14 parties' efforts to advance discovery. ECF No. 38. The parties requested to extend the discovery
15 period by 60 days, and the Court entered an Order granting the Stipulation to Extend Discovery
16 and Dispositive Motion Deadlines moving the discovery deadline to July 6, 2021. ECF Nos. 38-
17 39.

18 4. On June 2, 2021, the parties informed the Court of unforeseen circumstances that
19 thwarted their efforts to conclude discovery. Former counsel for Defendants, Daniel Aquino, left
20 Jackson Lewis, P.C., and Jackson Lewis, P.C. informed the Court of his departure on May 10,
21 2021. ECF No. 40. In addition, Defendant's counsel, Deverie Christensen broke her foot limiting
22 her mobility, causing significant pain, and restricting her ability to attend depositions. Further,
23 Plaintiff's counsel, Victoria Neal, experienced a serious family emergency relating to elder care.
24 In addition, both counsels had briefs due to the Ninth Circuit in *Jorge Rosales v. Bellagio, LLC*
25 in addition to managing busy caseloads. Finally, at the time Plaintiff's counsel had a two-week
26 trial on calendar to begin August 16, 2021, and had scheduled time accordingly to prepare. That
27 matter ultimately was resolved before trial.
28

1 5. At the time of June 2, 2021, stipulation, the parties believed that they would be
2 able to conclude discovery by the deadline; however, scheduling conflicts and ongoing illnesses
3 continue to plague their efforts. In an attempt to timely conclude discovery, lead counsel for
4 Defendant was replaced by Paul Trimmer who worked diligently worked to apprise himself of
5 the case and work with Plaintiff's counsel to schedule depositions.

6 6. On September 13, 2021, the parties informed the Court more time was needed to
7 complete discovery including taking depositions and written discovery and requested a discovery
8 cutoff date of December 3, 2021. ECF Nos. 45-46. The Court granted the parties stipulation and
9 requested extension. *Id.*

10 7. On November 12, 2021, the parties informed the Court that discovery had not be
11 completed and requested a 45-day extension with a cutoff date of January 18, 2021. ECF Nos.
12 47-48. The Court granted the parties stipulation and requested extension. ECF Nos. 47-48.

13 8. Since the last extension of time the parties have continued to work diligently to
14 schedule and take depositions including identifying and locating witnesses. Additionally, the
15 parties are working to resolve a discovery dispute and have engaged in but not completed the
16 meet and confer process. The parties are hopeful that when the meet and confer process has
17 concluded there will be no need for the Court's intervention in the current discovery dispute.

18 6. Due to the issues set forth above, the parties will be unable to complete the
19 necessary further discovery (including depositions) by the current January 18, 2021, deadline,
20 and good cause exists to extend the discovery deadline. Thus, the parties are requesting a 60-day
21 extension up to and including March 21, 2022 (March 19, 2022, is a Saturday).

22 7. This is the seventh request by the parties to amend the Discovery Plan and
23 Scheduling Order.

24 8. The parties stipulate and agree to amend the scheduling order as follows:

25 **I. STATEMENT OF DISCOVERY THAT HAS BEEN COMPLETED**

26 Plaintiff served the following disclosures:

27 a. Initial Disclosures on December 27, 2019

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Defendants served the following disclosures:

- a. Initial Disclosures on December 27, 2019

Plaintiff served the following discovery requests on March 19, 2020:

- a. Plaintiff's First Set of Interrogatories to Victoria Partners
- b. Plaintiff's First Set of Requests for Admissions to Mandalay Resort Group
- c. Plaintiff's First Set of Requests for Admissions to MGM Resorts International
- d. Plaintiff's First Set of Requests for Admissions to Victoria Partners
- e. Plaintiff's First Set of Requests for Documents to Victoria Partners

Defendants served responses on September 24, 2020, to the following discovery requests:

- a. Plaintiff's First Set of Interrogatories to Victoria Partners
- b. Plaintiff's First Set of Requests for Admissions to Mandalay Resort Group
- c. Plaintiff's First Set of Requests for Admissions to MGM Resorts International
- d. Plaintiff's First Set of Requests for Admissions to Victoria Partners
- e. Plaintiff's First Set of Requests for Documents to Victoria Partners

Defendants served the following discovery requests to Plaintiff on December 1, 2020:

- a. Defendant's First Set of Interrogatories to Plaintiff
- b. Defendant's First Set of Requests for Documents to Plaintiff

Defendant served a deposition notice on December 1, 2020, to take Plaintiff's deposition on January 14, 2021, which could not occur because of Covid related issues.

Plaintiff's deposition was taken on October 15, 2021.

Plaintiff's deposition of one percipient witness began October 4, 2021, but could not be concluded because of a missing document. This witness' deposition will be reset. Plaintiff took the deposition of another percipient witness on November 19, 2021. The parties continue to work on scheduling other depositions.

Plaintiff served the following on January 14, 2021:

- a. Responses to Defendant's First Set of Interrogatories to Plaintiff
- b. Responses to Defendant's First Set of Requests for Documents to Plaintiff
- c. First Supplemental Initial Disclosures

The parties submitted a proposed protective order, which the Court granted on March 15, 2021.

Plaintiff served the following on April 6, 2021:

a. Second Supplemental Initial Disclosures

Defendant served the following on April 23, 2021:

a. Second Supplemental Initial Disclosures

Plaintiff served the following discovery requests on September 21, 2021:

- a. Plaintiff's Second Set of Interrogatories to Victoria Partners
- b. Plaintiff's Second Set of Requests for Admissions to Victoria Partners
- c. Plaintiff's Second Set of Request for Documents to Victoria Partners

Defendants served responses on November 8th, November 16th and November 18th to the following discovery requests:

- a. Plaintiff's Second Set of Interrogatories to Victoria Partners
- b. Plaintiff's Second Set of Requests for Admissions to Victoria Partners
- c. Plaintiff Second Set of Request for Documents to Victoria Partners

Plaintiff served the following discovery requests on November 30, 2021:

- a. Plaintiff's Third Set of Request for Documents to Victoria Partners

Plaintiff served the following discovery requests on December 14, 2021:

- a. Plaintiff's Fourth Set of Request for Documents to Victoria Partners

II. STATEMENT OF DISCOVERY THAT REMAINS TO BE COMPLETED

The parties shall continue to meet and confer regarding the discovery disputes taking depositions of percipient witnesses, as well as a 30(b)(6) deposition, and propound/answer formal written discovery requests as necessary. Currently, Plaintiff believes there are seven depositions of percipient witnesses to be taken, as well as that of a 30(b)(6) deponent(s). Estimated number of depositions to be scheduled and taken may change based on the party's resolution of the current discovery dispute.

III. PROPOSED SCHEDULE

The parties stipulate and agree that:

Discovery: The discovery period shall be extended 60-days from the January 18, 2022, deadline to **March 21, 2022 (March 19, 2022, is a Saturday)**. The deadline to request an additional extension to the discovery period shall be **February 28, 2022**, twenty-one (21) days

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1 before the scheduled discovery cut-off.

2 1. **Dispositive Motions:** The parties shall have through and including **April 20,**
3 **2022**, to file dispositive motions, which is 30 days after the discovery deadline.

4 2. **Pre-Trial Order:** If no dispositive motions are filed, the Joint Pretrial Order
5 shall be filed thirty (30) days after the date set for the filing of dispositive motions or **May 20,**
6 **2022**. In the event dispositive motions are filed, the date for filing the Joint Pretrial Order shall
7 be suspended until thirty (30) days after decision on the dispositive motions or by further order
8 of the Court.

9 This stipulation and order is sought in good faith and not for the purpose of delay.

10
11 Dated this 20th day of December 2021.

12 Respectfully submitted,

13 KEMP & KEMP

14 /s/ Victoria L. Neal

15 JAMES P. KEMP, ESQ., Bar # 6375
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17 7435 W. Azure Drive, Suite 110
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Respectfully submitted,

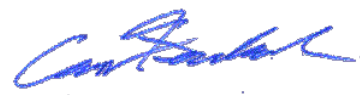
JACKSON LEWIS P.C.

14 /s/ Hilary A. Williams

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16 Hilary A. Williams, Bar # 14645
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Las Vegas, Nevada 8910
Attorneys for Defendants

18
19 **ORDER**

20 IT IS SO ORDERED December 20 _____, 2021.

21
22 
23 _____
U.S. Magistrate Judge
The Honorable Cam Ferenbach